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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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SEARCHED  SERIALIZED   
INDEXED  DRAWN   
FILED  PAPERS RECEIVED   
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EXAMINER

ART UNIT  PAPER NUMBER

DATE MAILED: *5*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/217,633</b>	Applicant(s) <b>Nakamori et al</b>
	Examiner <b>Hien Tran</b>	Group Art Unit <b>1764</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-14 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on Dec 22, 1998 is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings filed 12/22/98 are approved by the Draftsperson under 37 CFR 1.84 or 1.152 as indicated in PTO 948.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "2" in Fig. 3. Correction is required.

### ***Specification***

4. The disclosure is objected to because of the following informalities:  
On page 6, line 7 "en" should be changed to --an--.  
Appropriate correction is required.
5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

8. The art area applicable to the instant invention is that of catalytic converter.

One of ordinary skill in this art is considered to have at least a B.S. degree, with additional education in the field and at least 5 years practical experience working in the art; is aware of the state of the art as shown by the references of record, to include those cited by applicants and the examiner (*ESSO Research & Engineering V Kahn & Co*, 183 USPQ 582 1974) and who is presumed to know something about the art apart from what references alone teach (*In re Bode*, 193 USPQ 12, (16) CCPA 1977); and who is motivated by economics to depart from the prior art to reduce costs

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consistent with the desired product characteristics. *In re Clinton* 188 USPQ 365, 367 (CCPA 1976) and *In re Thompson* 192 USPQ 275, 277 (CCPA 1976).

9. Claims 1-2, 4-9, 11-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Whittenberger et al (5,651,906) in view of Kohno et al (5,653,825).

Whittenberger et al disclose a catalytic converter comprising:

a honeycomb structure shaped in a cylindrical form, said honeycomb structure having a plurality of channels (i.e. air vents) extending in an axial direction thereof; and

a cylindrical case covering an outer peripheral surface of the honeycomb structure wherein the case is composed of stainless steel.

The apparatus of Whittenberger et al is substantially the same as that of the instant claims, but fails to disclose whether the stainless steel case may be ferritic stainless steel case containing Mo.

However, Kohno et al disclose the conventionality of using ferritic stainless steel containing Mo for constructing converter housing due to its excellency in stress corrosion cracking resistance.

It would have been obvious to one having ordinary skill in the art to use the ferritic stainless steel containing Mo as taught by Kohno et al as an alternate material for the converter housing in the apparatus of Whittenberger et al for an improved stress corrosion cracking resistance and since use of such is conventional and no cause for patentability here.

10. Claims 3, 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Whittenberger et al (5,651,906) in view of Kohno et al (5,653,825) as applied to claims 1-2, 4-9, 11-14 above, and further in view of Yokokoji et al (4,925,634).

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The modified apparatus of Whittenberger et al is substantially the same as that instantly claimed, but fails to disclose whether the catalytic converter may be located inside a muffler housing.

However, Yokokoji et al disclose the conventionality of providing a catalytic converter 12 in combination with the muffler 62.

It would have been obvious to one having ordinary skill in the art to arrange the catalytic converter inside the muffler as taught by Yokokoji et al to purify exhaust gas as well as to absorb noise, as such is conventional in the art and no cause for patentability here.

### ***Conclusion***

11. The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1764.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is (703) 308-4253. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode, can be reached on (703) 308-4311. The fax phone number for this Group is (703) 305-3599 (for Official papers after Final), (703) 305-5408 (for other Official papers) and (703) 305-6078 (for Unofficial papers).

When filing a FAX in Group 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

HT

October 2, 2000

Hien Tran

**HIEN TRAN  
PRIMARY EXAMINER  
GROUP 1700**